IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE JURISDICTION

Misc Criminal Application No.3594 of 2007
in
Criminal Writ Petition No. 1214 of 2007

Ashok Uttamrao Kakade ..Applicant
vs
State of Maharashtra .. Respondents

Mr D.S. Chandnani i/b M/s Lexim & Ass for applicnt
Mr S.R.Borulkar PP for the respondents.

CORAM: SWATANTER KUMAR,C.J.

DATE: October 29, 2007.

P.C.:-

Heard the learned counsel for the parties.

This transfer application is moved by one Ashok Uttamrao Kakade. It is stated that the matter which is pending before the Division Bench of this Court should be transferred to other Bench on the ground of bias and the petitioner apprehends that he would not get justice in the event the case is not transferred to some other Bench. According to him it would just and proper that the matter is withdrawn from the Division Bench and assign to some other Bench.

In this application the petitioner has dealt with the merits of the case and claimed that the case against him is fabricated.

According to him the Bench has not given him proper hearing and had passed orders in undue haste. It is not disputed that the order of the Division Bench dated 31st January 2006 in Writ Petition No. 3147 of 2005 was assailed by the petitioner before the Supreme Court and after hearing him the Supreme Court did not grant any relief and disposed of the petition with liberty to the petitioner to approach Bench of this court for review. Thereafter the petitioner was again heard by the same Bench. The principal contention raised was that the petitioner is not a public servant under section 19(1)(a) to © of the P.C. Act and for the lack of sanction he would not be prosecuted. This contention was so far not accepted by the Bench and the matter is listed before the Bench for hearing.

As is evident from the above the controversy the petitioner is questioning the view of the Bench on the merits of the case, which in law can hardly be done, by praying for transfer of the petition. It is settled principle of law that mere apprehension in the mind of a litigant that he would not get justice by itself would not be a ground for allowing the application for transfer of the case. Present proceeding has been taken out by the petitioner unnecessarily.

I do not find any merit in this application and the same is dismissed.

CHIEF JUSTICE